IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3156 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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VIKRAM K MASHAR

Versus

GUJARAT PUIBLIC SERVICE COMMISSION

Appearance:

1. Special Civil Application No. 3156 of 2002

MR GM JOSHI for Petitioner No. 1

MR DN PATEL for Respondent No. 1

MR GORI, ASSTT. GOVERNMENT PLEADER for Respondent No. 2

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 02/08/2002

ORAL JUDGEMENT

Rule. Mr. N.K. Shah, on behalf of Mr. D.N. Patel waives service of notice of rule on behalf of

respondent No.1 and Mr. Gori, AGP for respondent No.2.

The petitioner applied for the post of Member, Industrial Court, Ahmedabad, pursuant to an advertisement by respondent No.1. He has not been called for interview on the grounds that he does not possess requisite experience of a High Court Advocate for ten years.

There is no dispute about the fact that the petitioner is enrolled as a member of Bar Counsel of Gujarat on 30th August, 1986 and it is the case of the petitioner that he is practising since then at Labour Court, Ahmedabad and other Courts.

The case of respondent No.1 is that since petitioner was not practising at the High Court, he cannot be said to have an experience of a High Court Advocate for ten years, as is clear from communication Annexure "D". Identical question arose before this Court in Special Civil Application Nos. 1137/01 and 5891/01 and this Court (Coram: P.B.Majmudar, J.) took a view that in such eventuality advocates who were practising more than ten years in the State whose names appear on the role of Bar Counsel of Gujarat for more than 10 years can definitely be described as Advocates of the High Court and he would be qualified to be appointed as member of the Industrial Court. No reasons are indicated by respondent to take a different view. Therefore the petition deserves to be accepted and allowed. Accordingly, the petition is allowed. Respondent No.1 is directed to consider the case of the petitioner for the post of Member, Industrial Tribunal, pursuant to advertisement dated 16.12.2000, if he is otherwise found suitable and eligible. In other words, the case of the petitioner will not be rejected by the respondent No.1 on the ground stated by it in its communication dated Annexure "D". Rule made absolute accordingly. No costs.

(A.L.Dave, J.)

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